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	Abbreviations:	
“A.B.2d.”	Second Brief of Appellant Bi-State Development Agency, Inc. filed in Appeal No. ED79994	
“L.F.I”	Legal File in Appeal No. ED79994	
“L.F.II”	Legal File in Appeal No. ED82467	
“R.B.I”	Respondent Bryant Moore, Jr.’s Brief in Appeal No. ED79994	

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JURISDICTIONAL STATEMENT

This second appeal arises out of a personal injury action filed by Bryant Moore, Jr. by and through his father, Bryant Moore, Sr., against defendant Bi-State Development Agency. On July 16, 2002 this court affirmed the April 27, 2001 judgment in plaintiff's favor in the sum of \$3,952,500, later reduced by setoff to \$3,890,000. (L.F.I at 113, 131, L.F.II at 212, 217) Moore, ex rel. Moore v. Bi-State Dev. Agy., 87 S.W.3d 279 (Mo.App.E.D. 2002).

In this court's opinion of July 16, 2002 this court held that the "Notice of Appeal" plaintiff Bryant Moore, Jr. attempted to file on August 17, 2001 was not a valid notice of appeal. (Moore at 295, 296)

On December 2, 2002 Bi-State filed its Motion for Order of Complete Satisfaction of Judgment or in the Alternative, to Amend the Judgment claiming that because plaintiff filed a document entitled "Notice of Appeal" he forfeited his right to claim post-judgment interest. On December 10, 2002 (also file stamped December 15, 2002) Bryant Moore, Jr. filed his Response to Defendant's Motion for Order of Complete Satisfaction of Judgment or, in the Alternative, to Amend Judgment (L.F.II at 43) and his Motion for Order Compelling Defendant to Pay Interest (L.F.II at 73).

On December 12, 2002 Bi-State's Motion for Order of Complete Satisfaction of Judgment and plaintiff's Motion for Order Compelling Defendant to Pay Interest were called, heard, argued and submitted to the Honorable Jimmie M. Edwards. (L.F.II at 154)

On January 15, 2003 the Honorable Jimmie M. Edwards entered an order granting Bi-State's Motion for Order of Complete Satisfaction upon its payment of the judgment of \$3,890,000 on December 2, 2002 and denied Bryant Moore, Jr.'s Motion for Order Compelling Defendant to Pay Interest on the judgment of \$3,890,000 through December 2, 2002. (L.F.II at 147)

On April 1, 2003 the Honorable Jimmie M. Edwards entered judgment in accordance with his order of January 15, 2003. (L.F.II at 225) This appeal followed when plaintiff prematurely filed his Notice of Appeal on January 24, 2003.

Bryant Moore, Jr.'s appeal raises no issues subject to the exclusive appellate jurisdiction of the Supreme Court of Missouri as set forth in Article V, Section 3 of the Missouri Constitution. Therefore, this case falls within the general appellate jurisdiction of the Missouri Court of Appeals. Under Section 477.050, RSMo. 2000, territorial jurisdiction rests with the Eastern District of the Missouri Court of Appeals.

STATEMENT OF FACTS

This second appeal arises out of a personal injury action filed by plaintiff Bryant Moore, Jr., by and through his father Bryant Moore, Sr., against defendant Bi-State Development Agency (hereinafter “Bi-State”). On April 27, 2001 the trial court entered judgment in plaintiff’s favor in the sum of \$3,952,500. Later, on May 9, 2001 the court reduced the judgment, by setoff, to \$3,890,000. (L.F.I at 113, 131, L.F.II at 212, 217) Defendant Bi-State appealed this judgment and defendant’s Notice of Appeal was filed on August 15, 2001. (L.F.I at 205, L.F.II at 114)

On August 17, 2001 plaintiff filed a document entitled, “Notice of Appeal.” (L.F.II at 98) Plaintiff did not pay a Fifty Dollar (\$50) docket fee with this Notice of Appeal. Later, on April 4, 2002, plaintiff filed an almost identical document entitled “Notice of Appeal.” (L.F.II at 97) Plaintiff paid the Fifty Dollar (\$50) docket fee at the time he filed this “Notice of Appeal” on April 4, 2002.

On March 29, 2002 Bryant Moore, Jr. filed his Brief in Appeal No. ED79994. Included in that Brief under Section V, entitled “Cross Appeal”, Bryant Moore, Jr. attempted to raise an issue on cross appeal regarding the court’s submission of the contributory/comparative fault of the minor, Bryant Moore, Jr. (R.B.I at 56)

On April 12, 2002 this court issued its Order to Show Cause to show why Bryant Moore, Jr.’s cross appeal should not be dismissed for lack of jurisdiction for an untimely notice of cross appeal.

Plaintiff responded to this Order to Show Cause and on April 19, 2002 this court issued its Order stating, “It is the Division Four panel’s belief that the failure to timely pay the docket fee with a notice of appeal is jurisdictional, and therefore a proper cross appeal is not before this court. Accordingly, the panel declines to consider the issue raised as a cross appeal in Respondent’s Brief. This disposition of the cross appeal will be addressed in the opinion to follow submission of the case.”

In summary, there is no dispute that on August 17, 2001 Bryant Moore, Jr. attempted to file a “Notice of Appeal” or that when Bryant Moore, Jr. filed his Brief in Appeal No. ED79994 on March 29, 2002 it included a section entitled, “Cross Appeal.” Further, there is no dispute that on April 4, 2002 Bryant Moore, Jr. attempted to refile a document entitled “Notice of Appeal” and that he paid a Fifty Dollar (\$50) filing fee at that time or that he responded to the April 17, 2002 Show Cause Order issued by this court and entitled his response to that Show Cause Order, “Respondent/Cross-Appellant Bryant Moore, Jr.’s Response to Order to Show Cause.”

Likewise, there is no dispute that in the Second Brief of Appellant Bi-State Development Agency, Inc. filed in Appeal No. ED79994 Bi-State argued the opposite of what they argued in the trial court in its Motion for Order of Complete Satisfaction of Judgment. In particular, at page 19 of Bi-State’s Second Brief, Bi-State stated, “Moore’s cross appeal should be dismissed for want of appellate jurisdiction. This court never docketed his appeal. Here, Moore failed to perfect his appeal by his failure to pay the docket fee at the time he filed his notice of appeal in the trial court.” [citations omitted] In

its Motion for Order of Complete Satisfaction of Judgment, Bi-State argued that Moore had filed a cross appeal. (L.F.II at 156-160)

Finally, there is no dispute that this court, in its opinion issued on July 16, 2002, Moore, supra. at 296, stated that “. . . having not timely paid the docket fee with is Notice of Appeal, Moore did not file a valid Notice of Appeal.” Therefore, the law of the case is that no notice of appeal was filed by plaintiff.

Defendant Bi-State failed in its attempts to have this case reheard by this court or transferred to the Missouri Supreme Court. Bi-State paid the net judgment without interest of \$3,890,000 to plaintiff on December 2, 2002. On December 2, 2002 Bi-State filed in the trial court its Motion for Order of Complete Satisfaction of Judgment or, in the Alternative, to Amend the Judgment. (L.F.II at 155) Succinctly stated, in this motion Bi-State claimed that because a document entitled “Notice of Appeal” was filed by Bryant Moore, Jr. on August 17, 2001, he forfeited his right to claim post-judgment interest. On December 10, 2002 (also file stamped December 15, 2002) Bryant Moore, Jr. filed his Response to Defendant’s Motion for Order of Complete Satisfaction of Judgment or, in the Alternative, to Amend Judgment (L.F.II at 43) and his Motion for Order Compelling Defendant to Pay Interest. (L.F.II at 73) In his Motion for Order Compelling Defendant to Pay Interest plaintiff Moore asked the trial court to compel defendant Bi-State to pay interest on the judgment of \$3,890,000 from April 27, 2001 through December 2, 2002 in the amount of \$560,160.

On December 12, 2002 Bi-State's Motion for Order of Complete Satisfaction of Judgment and plaintiff's Motion for Order Compelling Defendant to Pay Interest were called, heard, argued and submitted to the Honorable Jimmie M. Edwards. (L.F.II at 154) In the handwritten Memorandum submitted to the court on December 12, 2002 Moore stipulated that interest on the original judgment in favor of Moore, which totaled \$560,160 as of December 2, 2002, stopped as of December 2, 2002 when the underlying judgment, without interest, was paid by Bi-State. (L.F.II at 154)

On January 15, 2003 the Honorable Jimmie M. Edwards entered an order granting Bi-State's Motion for Order of Complete Satisfaction upon its payment of the judgment of \$3,890,000 on December 2, 2002 and denied Moore's Motion for Order Compelling Defendant to Pay Interest on the judgment of \$3,890,000 through December 2, 2002. (L.F.II at 147)

On April 1, 2003 the trial court entered judgment in this matter in accordance with its order of January 15, 2003. (L.F.II at 225) This timely appeal followed when plaintiff prematurely filed his Notice of Appeal on January 24, 2003.

POINTS RELIED ON

- I. The trial court erred in granting Bi-State's Motion for Order of Complete Satisfaction of Judgment upon the payment of the judgment in the underlying case without interest and in denying Bryant Moore, Jr.'s Motion for Order Compelling Defendant to Pay Interest based upon the trial court's finding that Bryant Moore, Jr. had filed a notice of cross appeal in Appeal No. ED79994 because the law of the case, as set out in the opinion issued by this Court in Appeal No. ED79994, was that Bryant Moore, Jr. did not file a valid notice of appeal.

Moore, ex rel. Moore v. Bi-State Dev. Agy., 87 S.W.3d 279 (Mo.App.E.D. 2002)

Williams v. Kimes, 25 S.W.3d 150 (Mo. 2000)

Davis v. GE, 991 S.W.2d 669 (Mo.App.S.D. 1999)

Section 408.040.1 RSMo.

ARGUMENT

I. The trial court erred in granting Bi-State's Motion for Order of Complete Satisfaction of Judgment upon the payment of the judgment in the underlying case without interest and in denying Bryant Moore, Jr.'s Motion for Order Compelling Defendant to Pay Interest based upon the trial court's finding that Bryant Moore, Jr. had filed a notice of cross appeal in Appeal No. ED79994 because the law of the case, as set out in the opinion issued by this Court in Appeal No. ED79994, Moore, ex rel. Moore v. Bi-State Dev. Agy., 87 S.W.3d 279, 294-296 (Mo.App.E.D. 2002), was that Bryant Moore, Jr. did not file a valid notice of appeal.

A. Introduction and Standard of Review

The April 1, 2003 judgment entered in accordance with the trial court's order of January 15, 2003 granting Bi-State's Motion for Order of Complete Satisfaction of Judgment and denying Bryant Moore, Jr.'s Motion for Order Compelling Defendant to Pay Interest should be reversed as a matter of law because the trial court, in entering that judgment, erroneously declared and applied the law in that the court incorrectly found that Bryant Moore, Jr. filed a "cross appeal" and thus, forfeited his right to interest on the \$3,890,000 judgment when the law of the case, as stated by this court in its July 16, 2002 opinion, is that no valid cross appeal was filed. Specifically, the court incorrectly found that Bryant Moore, Jr. filed a "cross appeal" and thus forfeited his right to interest when the

law of the case, as stated by this court in its July 16, 2002 opinion, is that no valid cross appeal was filed. Moore, supra. at 296.

In Murphy v. Carron, 536 S.W.2d 30, 30 (Mo.banc 1976) the Supreme Court declared that the standard of appellate review for any case tried by the court without a jury is whether the circuit court's judgment "erroneously declares the law, or . . . erroneously applies the law." Further, review of a legal determination is de novo and in cases involving questions of law, the appellate court reviews the trial court's determination independently, without deference to that court's conclusions. Lakin v. Gen. Am. Mut. Holding Company, 55 S.W.3d 499, 503 (Mo.App. 2001).

Post-judgment interest, by statute, is at the rate of nine percent (9%) per annum. 408.040.1 RSMo. Further, calculating the interest on the net judgment of \$3,890,000 in the underlying case from April 27, 2001 through December 2, 2002 when the net judgment was paid by Bi-State, totals \$560,160. (L.F.II at 154) Section 408.040.1 RSMo. states that interest "shall be allowed on all money due upon any judgment or order of any court from the date of rendering the same until satisfaction be made by payment, accord or sale of property. . ."

B. The law of the case precludes relitigation of issues on remand that were decided by the Appellate Court and subsequent appeal.

The doctrine of the law of the case applies appellate decisions to later proceedings in that case upon remand and governs successive appeals involving substantially the same issues and facts. Williams v. Kimes, 25 S.W.3d 150, 153 (Mo. 2000) and State v. Graham,

13 S.W.3d 290, 293 (Mo.banc 2000). The doctrine applies to all points presented and decided, as well as all matters that arose before the first appeal and could have been raised but were not. Id. at 54; Davis v. GE, 991 S.W.2d 669, 703 (Mo.App.S.D. 1999); See also: State Farm Mut. Auto Ins. Co. v. Esswein, 43 S.W.3d 833, 839 (Mo.App.E.D. 2000).

Here, the trial court incorrectly found that the doctrine of the law of the case did not apply because the issue of the validity of the cross appeal was not directly raised in either Bi-State's appeal or in the cross appeal. (L.F.II at 151, 152) The issue of the validity of the "cross appeal" was addressed both by the appellate court in its Order to Show Cause dated April 12, 2002, its Order dated April 19, 2002 and in its Opinion of July 16, 2002, Moore, supra. beginning at page 294. Plus, it was also addressed in appellant Bi-State's Second Brief at page 19. Specifically, in its Second Brief, Bi-State argued that Moore's "cross appeal" should be dismissed for want of appellate jurisdiction because the appellate court never docketed his appeal. Bi-State argued that, "Here, Moore failed to perfect his appeal by his failure to pay the docket fee at the time he filed the Notice of Appeal in the trial court." Citing Kattering v. Franz, 231 S.W.2d 148, 150 (Mo. 1950). (A.B.2d. at 19)

More importantly, this court held that because Moore did not timely pay the docket fee with his notice of appeal, he did not file a valid notice of appeal. Therefore, because this court's jurisdiction depends on the timely filing of a notice of appeal, and lacking that, its only permissible action was to dismiss the appeal. Moore, supra. 295, 296.

In summary, Judge Edwards was incorrect when he stated in his Judgment of April 1, 2003 incorporating his Order of January 15, 2003, that this court had not addressed the

issue of the validity of the cross appeal and therefore, the doctrine of the “law of the case” does not apply. (L.F.II at 151, 152)

C. The law of the case as set out in Moore, supra. at 295, 296 was that no valid “cross appeal” was filed by Bryant Moore, Jr. and therefore the trial court was incorrect in holding that Bryant Moore, Jr. forfeited his right to claim post-judgment interest because he “filed” a cross appeal in Appeal No. ED79994.

On April 1, 2003 the trial court entered judgment on defendant’s Motion for Order of Complete Satisfaction of Judgment or in the Alternative, to Amend the Judgment and denying plaintiff’s Motion for Order Compelling Defendant to Pay Interest in accordance with its Order of January 15, 2003. (L.F.II at 225, 147)

The trial court’s sole basis for granting defendant’s Motion for Order of Complete Satisfaction of Judgment and denying plaintiff’s Motion for Order Compelling Defendant to Pay Interest was the trial court’s conclusion, contrary to this court’s Opinion of July 16, 2002, that the filing of a pleading entitled “Notice of Appeal” by plaintiff on August 17, 2001 was, in fact, a valid notice of appeal. (L.F.II at 150) Therefore, the court concluded that because plaintiff filed this “Notice of Appeal” plaintiff was not entitled to post-judgment interest. (L.F.II at 152) Specifically, the trial court stated, “Notwithstanding the language of Section 408.040 RSMo., a judgment creditor who appeals a judgment as inadequate is not entitled to interest pending the appeal, when the judgment is affirmed on appeal.” Citing Land Clearance for Redevelopment Auth. of Kansas City v. Kansas Univ.

Endowment Ass'n., 831 S.W.2d 649, 650 (Mo.App.W.D. 1992). Accordingly, the trial court found that Bi-State had satisfied the judgment in full on December 2, 2002 when it paid the net judgment of \$3,890,000 without interest. However, in Land Clearance for Redevelopment Auth. of Kansas City v. Kansas Univ. Endowment Ass'n., supra. and the other cases¹ relied upon by the trial court, unlike here, there was a valid notice of appeal filed by the judgment creditor.

This court held in its opinion issued in Appeal No. ED79994 that Moore did not file a valid notice of cross appeal. Moore, supra. at 296. This holding by this court conclusively established that Moore did not file a cross appeal and therefore, he did not forfeit his right to claim post-judgment interest under the authorities relied upon by the trial court and Bi-State. Land Clearance for Redevelopment Auth. of Kansas City v. Kansas Univ. Endowment Ass'n., supra. at 650; Investors Title Co. v. Chicago Title Ins. Co., 18 S.W.3d 70, 72 (Mo.App.E.D. 2000); State ex rel. Southern Real Estate & Fin. Co. v. City of St. Louis, 115 S.W.2d 513, 516 (Mo.App. 1938); Jesser v. Mayfair Hotel, Inc., 360 S.W.2d 652, 665 (Mo.banc 1962); Komosa v. Monsanto Chemical Co., 317 S.W.2d 396, 398 (Mo.banc 1958). (L.F.II at 149-151 and 158-160)

Further, the trial court found that the doctrine of the law of the case did not apply because the issue of the validity of the cross appeal was not directly raised in this appellate court. (L.F.II at 151, 152) This holding is incorrect. This issue was addressed both by the

¹ Investors Title Co. v. Chicago Title Ins. Co., 18 S.W.3d 70, 72 (Mo.App.E.D. 2000), State ex rel. Southern Real Estate & Fin. Co. v. City of St. Louis, 115 S.W.2d 513, 516 (Mo.App. 1938)

appellate court in its Order to Show Cause dated April 12, 2002, its Order dated April 19, 2002, its Opinion of July 16, 2002, Moore, supra. beginning at page 294, and Appellant Bi-State's Second Brief at page 19. Specifically, in its second brief Bi-State argued that Bryant Moore, Jr.'s cross appeal should be dismissed for want of appellate jurisdiction because the appellate court never docketed his appeal. Bi-State argued that "Here, Moore failed to perfect his appeal by his failure to pay the docket fee at the time he filed the Notice of Appeal in the trial court." Citing Kattering v. Franz, 231 S.W.2d 148, 150 (Mo. 1950) (A.B.2d. at 19). More importantly, this court held that because Bryant Moore, Jr. did not timely pay the docket fee with his notice of appeal, he did not file a valid notice of appeal. Therefore, because this court's jurisdiction depends on the timely filing of a notice of appeal, and lacking that, its only permissible action was to dismiss the appeal. (Moore, supra. at 296)

Further, this court should not now allow Bi-State to argue, as the trial court did, the opposite of what they argued in this court in Appeal No. ED79994, i.e. that plaintiff Moore's cross appeal should be dismissed because he did not file a cross appeal. This is particularly true since Bi-State was successful in that argument in this court, as this court held "... having not timely paid the docket fee with his notice of appeal, Moore did not file a valid notice of appeal. Our jurisdiction depends upon the timely filing of a notice of appeal and lacking that our only permissible action is to dismiss the appeal." (Moore, supra. at 296).

In summary, Judge Edwards was incorrect when he stated in his Judgment of April 1, 2003 (and Order of January 15, 2003) that this court had not addressed the issue of the validity of the cross appeal and therefore, the doctrine of the “law of the case” does not apply. (L.F.II at 151, 152)

The doctrine of the law of the case as stated by the trial court applies appellate decisions to later proceedings in that case and governs successive appeals involving substantially the same issues and facts. Citing Williams v. Kimes, 25 S.W.3d 150, 153 (2000). Further, and as also stated by the trial court, “The doctrine applies to all points presented and decided as well as all matters that arose before the first appeal and could have been raised but were not. Id. at 54; Davis v. GE, 991 S.W.2d 669, 703 (Mo.App.S.D. 1999).” (L.F.II at 151, 152) In short, it is clear from the trial court’s order of January 15, 2003 that if the trial court had correctly determined that the doctrine of the law of the case applied, then the trial court’s Order/Judgment of April 1, 2003 would be the reverse. (L.F.II at 151-152, 225) In other words, if the trial court had correctly determined that the doctrine of the law of the case applied, then the trial court would have ruled against defendant Bi-State on its Motion for Order of Complete Satisfaction of Judgment and granted plaintiff’s Motion for Order Compelling Plaintiff to Pay Interest of \$560,160 on the net judgment of \$3,890,000. This result occurs because the law of the case precludes relitigation of issues on remand that were already decided by the appellate court on any subsequent appeal. Williams v. Kimes, supra. at 153-154, and State v. Graham, 13 S.W.3d 290, 293 (Mo.banc 2000).

The relevant facts here are that plaintiff filed a document entitled “Notice of Appeal” with the trial court on August 17, 2001 but included no docket fee. Later, on April 4, 2002, plaintiff filed an almost identical document also entitled “Notice of Appeal” but included a docket fee. On March 29, 2002 plaintiff filed his Brief in Appeal No. ED79994. Included in that Brief under Section V. entitled “Cross Appeal” plaintiff/respondent attempted to raise an issue on cross appeal regarding the court’s submission of the contributory/comparative fault of the minor plaintiff/respondent Bryant Moore, Jr. This court held that the failure to file the \$50 docket fee was fatal to the cross appeal rendering the cross appeal “never filed.” Moore, supra. at 295, 296.

In summary, plaintiff does not dispute that on August 17, 2001 he attempted to file a “Notice of Appeal” or that when plaintiff/respondent filed his Brief on March 29, 2002 it included a section called “Cross Appeal.” Further, plaintiff does not dispute that on April 4, 2002 plaintiff attempted to refile the document entitled “Notice of Appeal” and that he paid a Fifty Dollar (\$50) filing fee at that time. Likewise, plaintiff admits that plaintiff responded to the April 17, 2002 Show Cause Order issued by the Missouri Court of Appeals and entitled his response to that Show Cause Order, “Respondent/Cross Appellant Bryant Moore, Jr.’s Response to Order to Show Cause.”

Finally, taking all of the above into account, this court held that “. . . having not timely paid the docket fee with his notice of appeal, Moore did not file a valid notice of appeal.” (Moore, supra. at 296) In short, regardless of what appellant Moore attempted to do when he filed the document entitled “Notice of Appeal” this court has ruled that no cross

appeal was filed by appellant Moore. In other words, the law of this case is that no notice of appeal was filed by appellant Moore. Therefore, the trial court's finding that a "notice of appeal" was filed by Moore is incorrect. (L.F.II at 147-152) Consequently, the trial court's Judgment/Order finding that plaintiff Moore had forfeited his right to claim post-judgment interest because he filed a cross appeal is in error and in accordance with Section 408.040.1 RSMo. the trial court should have granted Moore's Motion for Order Compelling Defendant to Pay Interest from April 27, 2001 through December 2, 2002 in the total amount of \$560,160.

In conclusion, this court has already ruled that there was no valid notice of appeal. (Moore, supra. at 294-296) Therefore, the law of the case which should have been applied by the trial court, particularly so as to avoid the harsh result of forcing plaintiff to forfeit his right to claim post-judgment interest, is that because no valid notice of appeal was filed by Moore, he did not forfeit his right to claim post-judgment interest. Accordingly, the court should reverse the trial court's judgment as a matter of law, and order the trial court to enter judgment in plaintiff's favor on his Motion for Order Compelling Defendant to Pay Interest from April 27, 2001 through December 2, 2002 in the amount of \$560,160.

CONCLUSION

Bryant Moore, Jr. respectfully requests the Court to reverse the trial court's judgment granting defendant Bi-State's Motion for Order of Complete Satisfaction of Judgment because the trial court was in error in holding that Bryant Moore, Jr. had filed a cross appeal and thus forfeited his right to post-judgment interest and to remand the case with directions to the trial court to grant Bryant Moore, Jr.'s Motion for Order Compelling Defendant Bi-State to Pay Interest from April 27, 2001 through December 2, 2002 totaling \$560,160.

Respectfully submitted,

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AFFIDAVIT OF SERVICE

The undersigned certifies that a copy of Appellant's Brief and a disk containing same were deposited on this _____ day of May, 2003, in the United States Mail, postage prepaid, addressed to: Mr. James E. Whaley and Mr. T. Michael Ward, BROWN & JAMES, P.C., Attorneys for Respondent, 1010 Market Street, 20th Floor, St. Louis, MO 63101.

John D. Warner, Jr. - #30580

Subscribed and sworn to before me this _____ day of May, 2003.

My Commission Expires:

CERTIFICATE OF COMPLIANCE

The undersigned certifies that Appellant's Brief complies with the limitations in Eastern District Rule 360, contains 4,754 words, and that the computer disk filed with Appellant's Brief under Rule 84.06 and Eastern District Rule 361 has been scanned for viruses and is virus-free.

John D. Warner, Jr. - #30580

APPENDIX